

**From:** ray spence  
**To:** Microsoft ATR  
**Date:** 1/28/02 1:53am  
**Subject:** Microsoft Settlement

Dear DOJ,

I am writing in response to the proposed settlement to Civil Action No. 98-1233 - the antitrust case against Microsoft.

I am not in favor of the settlement terms. It seems to me that this set of requirements are solely concerned with either

1) allowing OEMs the right to alter the Windows OS desktop, boot any Windows OS computer into another non-Microsoft OS or in general work with non-Microsoft vendors to sell non-Microsoft products

- or -

2) allow non-Microsoft software developers, Internet providers and content providers contractual access to the Windows OS.

I agree that what I've outlined above, and what is the entirety of the proposed settlement is necessary. I do not believe this settlement goes far enough. Microsoft was found guilty of antitrust activities which has allowed it to occupy a monopolistic control over the computer industry. Here is a paradigm which just might provide a novel problem for antitrust legislation; to wit, the monopoly exists now, so any settlement must take steps to immediately restore fair competition to the computer software industry. Yet unlike an entity such as AT&T where simply breaking up the single company into many different corporate entities allowed competition, Microsoft's monopoly does not control from one service (phone service) but from the myriad software applications that are available from ISVs which are available \*only\* for Windows. This marketplace condition creates the notion that the only viable OS choice is Windows. I believe we have arrived at this condition from the close relationship between Microsoft's Office product and the fact that Office was and is written primarily for Windows and still for only one other OS - the Macintosh OS. As

Microsoft used both legal and illegal paths to place both these products at the forefront of all IHV concerns the business world came use these two Microsoft products seemingly without exception. If a company chose to use Office it commonly chose Windows as its OS. At the present time it seems that Office and Windows are just two more tools on any corporate desk

alongside pens, scissors, paper staples etc. But the difference from the other tools is that Windows and Office come from just one single company whereas one can pick and choose from many sources for their pens and paper. The most salient fact in this case is that Microsoft is indeed a monopolist yet the question as to just how to reduce this monopoly is still unanswered in this proposed settlement. Clearly the DOJ needs to address the current state of Microsoft's monopoly.

My assessment of the main two targets of this settlement above do nothing to reduce Microsoft's monopoly. Furthermore I firmly believe that unless the above corporate dependence on Microsoft Office is reduced Microsoft's monopoly will continue. The only meaningful solution is to somehow separate either Windows or Office from Microsoft's control. I would guess that this approach was intended in the first decision to break Microsoft into two or more companies.

Although I support such a corporate division if that path isn't available then I propose forcing Microsoft to divest itself at least of the Office suite of applications. The second requirement would be that the new Office owner must make Office available to other OS products other than Windows on an equal update schedule. Then the computer-using world should get closer to a real choice at least in the OS market, which is the true kernel of this monopoly.

Sincerely,  
Ray Spence

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